

Introduced by Senator Simitian

February 19, 2010

An act to ~~amend Section 529 of~~ *add Section 528.5 to* the Penal Code, relating to impersonation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1411, as amended, Simitian. Impersonation: Internet.

Existing law makes it a crime to falsely impersonate another in either his or her private or official capacity, as specified. Existing law also makes it a crime to knowingly access and, without permission, alter, damage, delete, destroy, or otherwise use any data, computer, computer system, or computer network in order to devise or execute any scheme or artifice to defraud, deceive, or extort, or wrongfully control or obtain money, property, or data. For a violation thereof, in addition to specified criminal penalties, existing law authorizes an aggrieved party to bring a civil action against the violator, as specified.

This bill would ~~add to the impersonation provisions and make unlawful~~ *make* the knowing impersonation of any other person through or on an Internet Web site or by other electronic means, as defined, ~~with a bad faith intent~~ for purposes of injuring, defrauding, or, *in bad faith*, deceiving another person, or *of* obtaining a benefit *in bad faith*, *a misdemeanor*. The bill would, in addition to the specified criminal penalties, authorize an aggrieved party to bring a civil action against any person who violates that provision, as specified. Because the bill would ~~add to an existing crime provision~~ *create a new crime*, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 528.5 is added to the Penal Code, to read:
2 528.5. (a) Any person who knowingly impersonates, in any
3 manner, or pretends to be any other person through or on an
4 Internet Web site or by other electronic means for any of the
5 following purposes is guilty of a public offense punishable pursuant
6 to subdivision (c):
7 (1) To injure, defraud, or, in bad faith, deceive another person.
8 (2) To obtain a benefit in bad faith.
9 (b) For purposes of this section, “electronic means” shall
10 include opening an e-mail account or an account or profile on a
11 social networking Internet Web site in another person’s name.
12 (c) A violation of subdivision (a) is punishable by a fine not
13 exceeding ten thousand dollars (\$10,000), or by imprisonment in
14 a county jail not exceeding one year, or by both that fine and
15 imprisonment.
16 (d) In addition to any other civil remedy available, an aggrieved
17 party who suffers damage or loss by reason of violation of
18 subdivision (a) may bring a civil action against the violator for
19 compensatory damages and injunctive relief or other equitable
20 relief pursuant to paragraphs (1), (2), (4), and (5) of subdivision
21 (e) and subdivision (g) of Section 502.
22 SEC. 2. No reimbursement is required by this act pursuant to
23 Section 6 of Article XIII B of the California Constitution because
24 the only costs that may be incurred by a local agency or school
25 district will be incurred because this act creates a new crime or
26 infraction, eliminates a crime or infraction, or changes the penalty
27 for a crime or infraction, within the meaning of Section 17556 of
28 the Government Code, or changes the definition of a crime within
29 the meaning of Section 6 of Article XIII B of the California
30 Constitution.

1 ~~SECTION 1. Section 529 of the Penal Code is amended to~~
2 ~~read:~~

3 ~~529. (a) Every person who falsely impersonates another person~~
4 ~~in either his or her private or official capacity, and, in that assumed~~
5 ~~character, does any of the following is guilty of a public offense~~
6 ~~punishable pursuant to subdivision (e):~~

7 ~~(1) Becomes bail or surety for any party in any proceeding~~
8 ~~whatever, before any court or officer authorized to take the bail~~
9 ~~or surety.~~

10 ~~(2) Verifies, publishes, acknowledges, or proves, in the name~~
11 ~~of another person, any written instrument, with intent that the same~~
12 ~~may be recorded, delivered, or used as true.~~

13 ~~(3) Does any other act whereby, if done by the person falsely~~
14 ~~impersonated, he or she might, in any event, become liable to any~~
15 ~~suit or prosecution, or to pay any sum of money, or to incur any~~
16 ~~charge, forfeiture, or penalty, or whereby any benefit might accrue~~
17 ~~to the party impersonating, or to any other person.~~

18 ~~(b) (1) Any person who knowingly impersonates, in any~~
19 ~~manner, or pretends to be any other person through or on an~~
20 ~~Internet Web site or by other electronic means with a bad faith~~
21 ~~intent for purposes of injuring, defrauding, or deceiving another~~
22 ~~person or obtaining a benefit is guilty of a public offense~~
23 ~~punishable pursuant to subdivision (e).~~

24 ~~(2) For purposes of this paragraph, “electronic means” shall~~
25 ~~include opening an e-mail account or an account or profile on a~~
26 ~~social networking Web site in another person’s name.~~

27 ~~(c) A violation of subdivision (a) or (b) is punishable by a fine~~
28 ~~not exceeding ten thousand dollars (\$10,000), or by imprisonment~~
29 ~~in the state prison, or in a county jail not exceeding one year, or~~
30 ~~by both that fine and imprisonment.~~

31 ~~(d) In addition to any other civil remedy available, an aggrieved~~
32 ~~party who suffers damage or loss by reason of violation of~~
33 ~~subdivision (b) may bring a civil action against the violator for~~
34 ~~compensatory damages and injunctive relief or other equitable~~
35 ~~relief pursuant to paragraphs (1), (2), (4), and (5) of subdivision~~
36 ~~(e) and subdivision (g) of Section 502.~~

37 ~~SEC. 2. No reimbursement is required by this act pursuant to~~
38 ~~Section 6 of Article XIII B of the California Constitution because~~
39 ~~the only costs that may be incurred by a local agency or school~~
40 ~~district will be incurred because this act creates a new crime or~~

1 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
2 ~~for a crime or infraction, within the meaning of Section 17556 of~~
3 ~~the Government Code, or changes the definition of a crime within~~
4 ~~the meaning of Section 6 of Article XIII B of the California~~
5 ~~Constitution.~~

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